

LOCAL GOVERNMENT IMPLEMENTATION OF THE “ENVIRONMENTAL PLANNING CRITERIA”

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Abstract. All of Georgia’s 692 cities and counties are required to adopt local regulations protecting wetlands, water supply watersheds, aquifer recharge areas, protected river segments and protected mountains that occur within their jurisdictions. So far about 250 governments have adopted the required regulations (see Table 1). The balance will address the requirements according to an established schedule linked to comprehensive plan implementation. A number of implementation challenges have been identified. Two critical local issues are how to address the local need for occasional variances and how to insure enforcement of local regulations in jurisdictions lacking sufficient administrative capacity.

INTRODUCTION

The purpose of this paper is to report on the progress of Georgia’s local governments in implementing the rules of Department of Natural Resources (DNR) for “Environmental Planning Criteria.” The paper focuses on the four water-related resources that have the greatest relevance to this conference. In order to put this report in the proper context, the paper will address the following topics:

- Relationship of local environmental regulations to local comprehensive plans;
- Summary of progress in implementing the criteria;
- Detail of progress on each water-related resource, including a brief description of program requirements, protective measures, and implementation challenges.

The Environmental Planning Criteria address five resources, including protected mountains. The four most relevant to the topic of this conference are wetlands, water supply watersheds, aquifer recharge areas and protected rivers. The intent of the criteria is to provide for the protection of each resource wherever

it occurs in the state, through adoption and enforcement of local environmental regulations.

THE LOCAL COMPREHENSIVE PLANNING CONTEXT

Local governments must adopt environmental regulations in order to meet the implementation requirements under the Coordinated Planning Program of the Georgia Department of Community Affairs (DCA). With the passage of the Georgia Planning Act of 1989, all of Georgia’s 159 counties and 533 cities were designated “Qualified Local Governments.” They must maintain that status in order to remain eligible for a range of state and federal assistance programs. The Official Code of Georgia (O.C.G.A.) Section 50-8-2(G)(18) defines “Qualified Local Government” as a county or municipality which:

- Has a comprehensive plan in conformity with the minimum standards and procedures;
- Has established regulations consistent with its comprehensive plan and with the minimum standards and procedures; and
- Has not failed to participate in the department’s [Department of Community Affairs] mediation or other means of resolving conflicts in a manner which, in the judgment of the department, reflects a good faith effort to resolve any conflict.

DCA administers the Minimum Standards and Procedures for Local Comprehensive Planning, which guide local governments in developing, preparing and adopting their comprehensive plans. These standards include those minimum criteria known as “Environmental Planning Criteria” developed by DNR for protection of the state’s vital natural resources. (O.C.G.A. 12-2-8 (b) authorizes the Department of Natural Resources (DNR) to develop minimum

standards and procedures for protection of: mountains, river corridors, watersheds to be used for public water supply, the purity of groundwater, and wetlands. O.C.G.A. 50-8.7.1(b)(2) directs DCA to incorporate the Environmental Planning Criteria prepared by DNR into the minimum standards and procedures local governments must use in developing, preparing and implementing their comprehensive plans.)

DCA conducts the compliance review of local environmental regulations submitted to address the Environmental Planning Criteria. DNR retains the authority and the responsibility, as author of the criteria, to interpret their provisions as implementation proceeds. Common or widely applicable questions on meaning and interpretation (and the answers provided by DNR) are provided on the DCA web site at: www.dca.state.ga.us/planning/envirquestion.html.

IMPLEMENTATION OF ENVIRONMENTAL PLANNING CRITERIA AS OF FEBRUARY 2001

The implementation schedule for all comprehensive planning requirements, beginning with the initial adoption of DCA-approved comprehensive plans, has been staggered for administrative purposes. The first local plans were adopted in 1991. With few exceptions, all local governments in Georgia had adopted DCA-approved comprehensive plans by 1996.

The first program requirement for local governments relating to the Environmental Planning Criteria was to recognize in their comprehensive plans the need to protect the listed resources that occurred within their jurisdictions. Beginning in 1997, DCA required local governments to include strategies within their Short Term Work Program (STWP) updates to adopt the required regulations. The STWP is an integral part of the comprehensive plan's implementation section. It lists those activities and strategies a local government intends to pursue within the first five years of the 20-year planning timeframe in order to implement the goals and objectives of the plan. The STWP is updated on a regular basis, usually every five years, but sometimes on an annual basis.

The established deadline for adoption of local ordinances consistent with the Environmental Planning Criteria is usually one year following adoption of the community's first Short Term Work Program (STWP) update. As of February 28, 2001, 249 of Georgia's 692 local governments (about 36%) had adopted regulations to protect resources within their communities (see Table 1).

The following sections provide a more detailed

update on implementation of each water-related resource.

Wetlands. Wetlands provide important benefits for flood protection, erosion control, maintenance of water quality, drought management, and essential habitat for fish and wildlife. For purposes of the Environmental Planning Criteria, wetlands are defined as areas that are flooded or saturated by surface or groundwater often and long enough to grow vegetation adapted for life in water-saturated soil.

All local governments containing wetlands within their jurisdiction (based on the National Wetlands Inventory) are required to coordinate local permitting with the U. S. Army Corps of Engineers Section 404 permitting process. Local governments must ensure that, through granting a local permit, they do not inadvertently allow or encourage alteration of wetlands under the "jurisdiction" of the U.S. Army Corps of Engineers. Local governments must also adopt and maintain on site a "generalized" wetland map (based on NWI, or more accurate wetlands information) as part of the local ordinance for reference purposes.

Local governments are required to assign responsibility to someone at the local level to compare a proposed project location with the adopted Generalized Wetlands Map. If the proposed project appears to be near or within a wetland boundary, and the project is one that could alter jurisdictional wetlands, the responsible party must refer the applicant to the Corps of Engineers. Prior to issuance of a local permit or permission to proceed, the Corps must make a determination of whether or not jurisdictional wetlands may be involved on the site.

Based on current information, 614 of Georgia's 692 local governments have wetlands within their jurisdiction. Of these, 215 have adopted coordination processes as required under the criteria.

Implementation challenges include crafting local ordinances that do not result in either too few or too many development applications being sent to the Corps of Engineers for review. Implementation of the required coordination process is extremely difficult in a local setting where there is no formal permitting process or where there is little or no administrative capacity to implement local ordinances.

Water Supply Watersheds. Water supply watersheds are areas where rainfall runoff drains into a river, stream or reservoir that is used as a source of public drinking water supply. Most water supply watersheds in Georgia are located in the northern half of the state

and are of two types: those with a public water supply reservoir, and those with a public water supply intake (which may be on a river or a reservoir). Protective measures are intended to help keep drinking water free of contamination by limiting sources of pollution. This helps reduce the costs of purification and helps guarantee public health.

All local governments containing any part of a water supply watershed within their jurisdiction must adopt protective measures, regardless of whether or not the intake is located within a local government's jurisdiction or the government uses any drinking water from that source. All existing and proposed water supply watersheds and reservoirs must be addressed. Finally, the local ordinance must include applicable reservoir protection measures or refer to a separate Reservoir Management Plan.

Protective measures range from protecting against pollution from hazardous waste handlers to stream buffers and limits on total impervious surface area within a water supply watershed.

Based on current DCA and EPD information, 208 governments contain or are located within water supply watersheds. So far 56 have adopted the required ordinances.

Implementing protective measures for water supply watersheds is technically challenging and related requirements, such as for Reservoir Management Plans, are even more so. Implementing impervious surface restrictions is particularly challenging in urbanized areas where existing development already accounts for a substantial proportion of the allowable amount. This has led some communities to take advantage of the provision in the criteria for alternative protective measures, which must be approved by EPD as providing the same level of protection.

Groundwater Recharge Areas. Approximately 40 percent of Georgians, primarily located in the coastal plain portion of the state, get their drinking water from groundwater sources. Protection of groundwater sources of drinking water is therefore essential.

A groundwater recharge area is a surface land area where water that eventually enters an aquifer (an underground reservoir) is first absorbed into the ground. If hazardous waste or toxic substances pollute the water that seeps into the ground in a recharge area, these pollutants are likely to be carried into the aquifer and contaminate the groundwater, making it unsafe to drink. Once polluted, a groundwater source is almost impossible to clean up.

Every community that contains a groundwater

recharge area, as identified on Hydrologic Atlas #18 and #20, must adopt protection measures. Based on information available to DCA, 367 local governments contain groundwater recharge areas. As of February 28, 2001, 139 of them (38 percent) have adopted the required ordinances.

Protective measures include lot size restrictions for residential lots served by individual on-site septic systems within significant recharge areas. The standards for lot sizes are contained within the Department of Human Resources' Manual for On-Site Sewage Disposal Systems (pages M-1 and M-2).

Implementation issues include the difficulty of applying large scale maps to small areas in a local jurisdiction. More recently it has been recognized that better coordination is needed between County Boards of Health (whose employees issue septic tank permits) and local governments once they have adopted stricter standards.

Protected River Corridors. River corridors are of vital importance to Georgia in that they help preserve those qualities that make a river suitable as a habitat for wildlife, a site for recreation, and a source of clean drinking water. River corridors also allow the free movement of wildlife from area to area within the state, help control erosion and river sedimentation, and help absorb floodwaters.

A *protected river* is defined in statute as a Georgia river that has an average flow rate of at least 400 cubic feet per second. A *protected river corridor* is all land, inclusive of islands, in areas of a protected river and being within 100-feet horizontally on both sides of the river as measured from the uppermost part of the river bank (usually delineated by a break in the slope). The protected area also includes the area between the uppermost part of the riverbank and the water's edge, although this strip of land is not included as part of the 100-foot buffer requirement contained in the minimum standards.

All local governments containing any part of a State-designated protected river (as delineated on an official map by DNR) must adopt protective measures. Based on current information, 151 local governments in Georgia have protected river segments within their jurisdictions. About 49 communities, or 32 percent, have adopted protective ordinances.

Protective measures include primarily a vegetative buffer along protected river segments, with lot size restrictions and prohibition of certain uses within the buffer. Implementation issues include local government requests for approval of variances from the

Table 1. Georgia Local Governments with Established Local Ordinances under DNR Environmental Planning Criteria, as of February 28, 2001. (Georgia Dept. of Community Affairs).
Five Codes indicate whether ordinance had been adopted (1 is adopted, 0 is not adopted) for:
Wetlands, Watershed, Groundwater Recharge, River Corridors, Protected Mountains.

Part 1. Cities, Towns:		East Dublin	10110	Newborn	10000	Ty Ty	10100	Irwin	10110
		Eastman	10000	Newington	00100	Tybee Island	10000	Jackson	11110
Acworth	01000	Edge Hill	00100	Newnan	11100	Tyrone	11100	Jasper	11100
Adel	10000	Edison	10100	Nicholson	10000	Union City	10000	Jefferson	10110
Alamo	10100	Elberton	01000	Norcross	11100	Wadley	10000	Johnson	10110
Alapaha	10000	Ellenton	10000	Norman Park	10000	Waleska	10000	Lamar	01000
Allenhurst	10100	Enigma	10000	Norwood	00100	Walnut Grove	11000	Laurens	10110
Allentown	10100	Fayetteville	00100	Oakwood	10000	Walthourville	10100	Liberty	10100
Americus	10100	Flowilla	10000	Ochlocknee	10000	Warrenton	10000	Macon	10110
Arlington	10100	Funston	10000	Ocilla	10000	Warwick	10100	McDuffie	01000
Atlanta	11000	Gainesville	11100	Odum	10000	Washington	10100	Monroe	01000
Auburn	01000	Garden City	10000	Omega	10000	Watkinsville	10000	Morgan	11100
Austell	01000	Georgetown	00100	Oxford	10000	Waycross	10010	Muscogee*	11100
Avera	00100	Gibson	10100	Payne City	00100	White Plains	10100	Newton	11110
AvondaleEst.	10100	Glenwood	10000	Peachtree City	11100	Winder	11000	Oconee	00100
Bainbridge	00100	Gordon	10100	Pembroke	10000	Woodville	11100	Pickens	11101
Bartow	10000	Grantville	10000	Pine Mountain	10100	Woolsey	11000	Pulaski	00110
Bellville	10000	Hagan	10000	Plains	10100	Wrens	00100	Putnam	01100
Berlin	10000	Haralson	10000	Pooler	10000	Wrightsville	10000	Quitman	10100
Bethlehem	10000	Hartwell	10000	Port Wentworth	10000			Randolph	10100
Between	10100	Hawkinsville	00110	Porterdale	10010			Richmond*	11110
Blakely	10100	Helena	10100	Poulan	10000	<i>* Unified city-county:</i>		Screven	10110
Bloomington	10000	Hinesville	10100	Ray City	10000	<i>* Athens-Clarke</i>		Stephens	11100
Boston	10000	Hogansville	10000	Rentz	10000	<i>* Columbus-Muscogee</i>		Sumter	10110
Bowman	11100	Ideal	10100	Rhine	10100	<i>* Augusta-Richmond</i>		Telfair	10110
Braselton	01000	Irwinton	10100	Riceboro	10000			Thomas	10000
Bronwood	10100	Ivey	10100	Richmond Hill	10000			Tift	10110
Brooklet	10100	Jackson	10000	Rocky Ford	10000	Part 2. Counties		Towns	00001
Buford	10000	Jacksonville	10000	Rome	11110	(64 here of 159		Troup	11110
Cadwell	10000	Jakin	10100	Roopville	10000	total)		Twiggs	10110
Cave Spring	10000	Jasper	01000	Roswell	11100	Bacon	10000	Union	01011
Cecil	10000	Jefferson	11000	Sale City	10100	Banks	11100	Walton	01000
Chamblee	00100	Jesup	10100	Sandersville	10100	Barrow	11110	Ware	10110
Chauncey	10100	Kennesaw	10000	Savannah	10100	Berrien	10110	Washington	10110
Chester	10000	Kite	10000	Scotland	10000	Bibb	11110	Wayne	10110
Chickamauga	11100	Lenox	10000	Screven	10100	Bleckley	10110	Wheeler	10110
Clarksville	01000	Leary	10100	Senoia	10000	Bulloch	10110	Wilkinson	10110
Clarkston	10000	Lilburn	10000	Shady Dale	10000	Carroll	11000	Worth	10110
Claxton	10100	Lincolnton	10000	Shellman	10100	Chatham	10100		
Cochran	10100	Louisville	10100	Shiloh	11000	Cherokee	11110		
Coleman	10000	Lumber City	10110	Sparks	10000	Clarke*	11110		
Coolidge	10000	Macon	11110	Springfield	10100	Colquitt	10110		
Covington	11000	Mansfield	01000	Stapleton	00100	Cook	10110		
Cuthbert	10100	McIntyre	10100	Statham	11000	Dodge	10110		
Daisy	10000	McRae	10100	Sugar Hill	11000	Douglas	11100		
Danville	00100	Meigs	10000	Sumner	10000	Elbert	11110		
Davisboro	00100	Milan	10000	Suwanee	11100	Evans	10110		
Dawson	10100	Mitchell	00100	Sylvester	10000	Floyd	11110		
Deepstep	00100	Montezuma	10110	Temple	10000	Forsyth	11110		
Dexter	10000	Monticello	10100	Tennille	10000	Glascok	10100		
Doerun	10000	Montrose	10000	Thomasville	10000	Gordon	11110		
Doraville	10100	Moreland	10100	Thomson	01000	Gwinnett	11100		
Douglasville	11100	Morgan	10100	Thunderbolt	10000	Habersham	11111		
Dublin	10110	Morrow	10000	Tifton	10000	Hancock	11110		
Dudley	10100	Moultrie	10000	Tignall	00100	Harris	11110		
Duluth	10000	Nashville	10100	Toombsboro	10100	Henry	01000		

lot size restrictions. Many local governments have in the past granted approvals for riverfront lots that now do not meet the current regulations. Existing land uses are exempt from the criteria, but must meet specific criteria set forth in rules and statute. However, lots of record are not exempt from these requirements.

CONCLUSION

As shown in the Table 1, a total of 249 local governments have established environmental ordinances consistent with the Environmental Planning Criteria. This represents substantial progress in a program that began full implementation in 1997. As noted above, the requirement to adopt local ordinances is linked to comprehensive planning requirements, particularly the Short Term Work Program update. Not all local governments have reached their first update deadline; therefore, not all local governments have yet been put "on notice" that they must adopt environmental regulations consistent with the Environmental Planning Criteria. By 2003, all local governments will have either adopted consistent regulations or have been officially notified of the requirement that they do so.

In 2000 DCA issued revised guidelines and sample ordinance language to assist local governments in meeting the requirements of the Environmental Planning Criteria. We continue to work with local governments, their Regional Development Centers (which can provide much-needed technical assistance) and other state agencies (such as DNR and DHR) to address local implementation issues such as those identified in this paper.